

Serial No. 09/771,459
Docket No. 595-021PA (KIL021PA)

REMARKS/ARGUMENTS

In the identified Office action, claim 53 was allowed and claims 31, 32, 36, 39-43, 47-51, 55 and 56 were objected to as being dependent upon a rejected base claim but as otherwise being allowable if rewritten into independent form. Applicants gratefully acknowledge the recognition of allowable subject matter in these claims.

Claims 25 and 52 have been amended to emphasize the claimed feature of a ticker tape to display a plurality of graphical historical data charts at a user's site and thereby clarify the invention.

The rejections of claims 25-30, 33-35, 37, 38, 44-46, 52 and 54 under 35 U.S.C. §103(a) as being unpatentable over Dey et al. (U.S. Patent No. 6,490,580 - herein Dey) in view of Bay, Jr. (U.S. 5,347,452 - herein Bay) in the identified Office action are respectfully traversed.

Dey discloses a method and device for the selection of documents for presentation to a user in response to the user's expression of interest during review of a document whose content varies with time. The method uses information retrieval techniques to select documents related to portions of the temporal document in which the user expressed interest. More particularly, a search query is generated to select documents by reference to text associated with the portions of the temporal document in which the user expressed interest. A weighting function is used to bias the terms used in the search query depending on their temporal relationship to the user's expression of interest. To conserve resources, a closed caption or other synchronized multimedia information used for the search is not transmitted to the user, and the necessary information about the temporal occurrence of terms in the temporal document is obtained from a database.

Serial No. 09/771,459
Docket No. 595-021PA (KIL021PA)

The only disclosure in Dey that is relevant to the invention of the present application is the general nature of the Internet and world-wide web and that, for example, stock quotations may be displayed on a ticker tape. More particularly, the only occurrence of "ticker tape" in Dey is in column 2, line 7, and this is used to describe how text or stock quotations can be displayed:

"For example, the *text* of news bulletins, *stock quotations* such as would be seen on a 'ticker tape', or *sports scores* may be made available; material such as this by its nature also may be changing as it is viewed, either because the underlying information is changing, or because the information is 'scrolled' across the user's monitor, thus appearing as constantly changing with time." [emphasis added] column 2, lines 6-12

There is no disclosure or suggestion in Dey of a graphical ticker tape as disclosed and claimed in the present application.

Bay discloses a method for displaying market trading volume in selected commodities for developing a priori knowledge of price trends from abnormal trading volume using a graph showing a set of sequential first markers. Each first marker corresponds to a preselected time interval and has an amplitude representing average volume of trades of a predetermined item during a preselected time interval taken over a predetermined number of the preselected time intervals. A set of second markers is generated substantially concurrently in time with the corresponding first markers and the set of second markers is positioned on the graph in proximity to the corresponding set of first markers. Each second marker has an amplitude representing the volume of trades in the preselected item during the most recent preselected time interval with the difference in amplitude indicative of trade volume deviation from average trade volume. Thus, the only thing added by Bay is the display of financial data on a historical chart. There is no reference whatsoever of a ticker tape much less a graphical ticker tape as disclosed and claimed in the present application.

Serial No. 09/771,459
Docket No. 595-021PA (KIL021PA)

As the Examiner points out, Dey does not disclose "providing a stream of historical data from the blocks in the central database such that a ticker tape of a plurality of graphical historical data charts can be displayed at the user's site." In particular, Dey does not disclose or suggest "a ticker tape of a plurality of graphical historical data charts."

Neither Dey nor Bay contain any teaching that would motivate a person of ordinary skill in the art to provide a ticker tape consisting of a plurality of graphical historical data charts. Dey relates to "retrieving the pages of interest to a user which relate to temporal material such as video programming" (column 1, line 26 to 29) and the skilled person would hence not even consult this document when seeking to improve a conventional ticker tape.

It is respectfully submitted that the Examiner's argument that it would be obvious to present historical data by way of a ticker tape, merely on the grounds that the graphing of historical data was known per se is based solely on hindsight in view of the teachings of the present application. Once the invention had been made, its advantages are of course all too clear – but that is not the test of obviousness. It must be borne in mind that at the date of invention, ticker tapes were used solely for the purpose of presenting real-time data, by way of a numerical display. In the mind of the skilled person, ticker tapes represented a way of rapidly providing to a user up-to-date information on the current value of one or more variables. It is entirely as a result of the innovative lateral-thinking of the present inventors that ticker-tapes are now being used for a much wider range of tasks than in the past, and in particular for the presentation of multiple graphical historical data charts.

Were the Examiner's analysis correct, one would have expected the invention as claims to have been arrived at long ago since – as stated above – its merits when

Serial No. 09/771,459
Docket No. 595-021PA (KIL021PA)

considered ex post facto are indeed very clear. Once the concept has been arrived at, there is no particular technical difficulty in implementing it; merely the normal programming tasks inherent in any such software project. There is therefore no conceivable technical reason why a skilled artisan should not have put this invention into practice long ago, other than his want of inventive spark in generating the initial concept. Accordingly, it is respectfully submitted that claims 25, 52 and the claims that depend from claims 25 and 52 are in condition for allowance which is requested.

Regarding claim 54, in contrast to the Examiner's statement in paragraph 16, Dey does not disclose "display [of] a moving set of graphical images (scores, quotes), each image presenting current performance data (column 1 lines 25-67 and column 2 lines 1-15)." In particular, there is no mention of "a moving set of graphical images" nor of "current performance data" in the passages cited by the Examiner. A review of Dey for mention of scores (sports scores not Dey's document scores) and stock quotations emphasizes that display of these items does not contemplate "a moving set of graphical images." In particular, scores and stock quotations are mentioned at only three locations in Dey, column 2, lines 7-8 (see above quote), column 4, lines 34, 35 ("The *text* may include news bulletins, weather, sports scores or stock transactions or pricing information." [emphasis added]), and column 6, lines 46-48 ("It may also include, for example, *textual* news bulletins that are displayed, either alone or superimposed on other content, or stock quotations or sports scores."). Each reference is to text or textual materials with no mention of graphical materials. With regard to other aspects of claim 54, the same remarks made relative to claims 25 and 52 apply equally to claim 54. Accordingly, it is respectfully submitted that claim 54 and the claims that depend from claim 54 are in condition for allowance which is requested.

In view of the above remarks, it is respectfully submitted that independent claims 25, 52 and 54 distinguish over Dey and Bay and are in condition for allowance which is

Serial No. 09/771,459
Docket No. 595-021PA (KIL021PA)

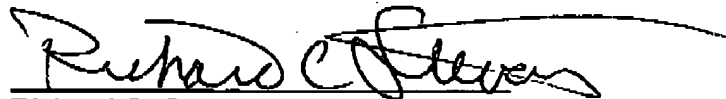
requested. Since all the independent claims, claims 25, 52 and 54, are submitted as being patentable, so are the claims that depend from the independent claims. Accordingly, it is respectfully submitted that all claims now pending in the present application are in condition for allowance and applicants therefore request reconsideration of the application and allowance of all claims.

Claims 31, 32, 36, 39-43, 47-51, 55 and 56 that were objected to as being dependent upon a rejected base claim but as otherwise being allowable if rewritten into independent form have not been amended into independent form in view of the above remarks indicating the allowability of the claims from which they depend.

If the present amendment raises any questions or the Examiner believes that an interview would facilitate prosecution of the present application, he is respectfully requested to contact the undersigned attorney.

Respectfully submitted,
STEVENS & SHOWALTER, L.L.P.

By



Richard C. Stevens
Registration No. 28,046

7019 Corporate Way
Dayton, OH 45459-4238
Telephone: (937) 438-6848
Facsimile: (937) 438-2124
E-mail: rcstevens@speakeasy.net
C:\A-Work\KilAm\KIL021PA\Kil021pa.resp to 11-5-03 03.wpd